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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-188467

DATE: November 21, 1977

MATTER OF: W. Bruce Weaver - Relocation expenses of a
Foreign Service Reserve employee

DIGEST: A Foreign Service Reserve employee was transferred from Washington, D.C., to Seattle, Washington, and was erroneously authorized relocation expenses under 5 U.S.C. 5724a and the Federal Travel Regulations. Transfers of Foreign Service employees are governed by Foreign Service Act of 1946, 22 U.S.C. 801, et seq., and Volume 6 of Foreign Affairs Manual, which do not contain authority for claimed relocation expenses. Relocation expenses may not be allowed under 6 FAM 113, "Emergency, Unusual, or additional payment," which permits exceptions to Foreign Service Travel Regulations under certain conditions, since Foreign Service Act of 1946 does not authorize such expenses, and 6 FAM 113 and 6 FAM 121.1-4 may not be used to authorize payments not otherwise allowable by law.

This action results from the appeal of W. Bruce Weaver of the Claims Division settlement dated January 4, 1977, which denied his claim for reimbursement of certain expenses incurred in connection with his transfer of permanent duty station.

Mr. Weaver, a Foreign Service Reserve employee of the Passport Office, Department of State, was transferred from Washington, D.C., to Seattle, Washington, effective March 22, 1976. Incident to that transfer he was issued a travel authorization dated March 17, 1976, which authorized his relocation expenses pursuant to the Federal Travel Regulations, FPMR 101-7 (May 1973), including travel to seek residence quarters, transportation of household effects, temporary storage of household effects, miscellaneous expense allowance, reimbursement of residence transaction expenses, subsistence while occupying temporary quarters, and travel expenses for the employee and his immediate family to the new duty station. Pursuant to this travel authorization Mr. Weaver completed his relocation to Seattle.

On May 20, 1976, the Department of State issued an amended travel authorization stating that the March 17, 1976, travel authorization was issued through administrative error. It further stated that the former:

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"authorization is hereby amended to change allowances cited under Federal Travel Regulations to the allowances granted under Foreign Service Travel Regulations (FSTR) in connection with reassignment and change of official duty station from Washington, D.C. to Seattle, Washington.

"Employee incurred expenses in good faith and to alter reimbursement of these expenses will cause undue hardship. Therefore, in addition to allowances granted under FSTR, the Passport Office also authorize additional payment of the following expenses in accordance with FSTR Section 113- 'Emergency, Unusual, or Additional Payment'."

"Six days to seek housing, temporary quarter allowance not to exceed 30 days, expenses incurred in connection with sale and/or purchase of residence, miscellaneous expense allowance of \$200.00."

It was reported that the original travel authorization was issued as if Mr. Weaver was a Civil Service employee who would, thus, be entitled to relocation expenses pursuant to 5 U.S.C. 5724a (Supp. V, 1975) and the Federal Travel Regulations. However, as a Foreign Service employee, Mr. Weaver's entitlement is governed by the Foreign Service Act of 1946, 22 U.S.C. 801 et seq., and the implementing regulations contained in Volume 6 of the Foreign Affairs Manual.

The differences between the pertinent provisions of the Federal Travel Regulations and the Foreign Affairs Manual are outlined in an August 19, 1976, memorandum to Mr. Weaver from the Financial Services Section as follows:

"Since records substantiate your conversion to the Foreign Service effective 12/21/75, your travel expenses are allowed in accordance with the Foreign Service Act, Section 913, and 6 FAM 181.1. House hunting expenses are payable by law to General Schedule employees. There are no provisions under the Foreign Service Act, or the Foreign Service Regulations for the payment of allowances between domestic assignments, or expenses in connection with house hunting trips, and the sale, and/or purchase of real estate. There are provisions under 6 FAM 181.1 for transportation of household effects

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and other related expenditures pertaining thereto such as packing, unpacking, etc. including storage of household effects until the establishment of residence quarters."

Accordingly, the State Department denied Mr. Weaver's claim for reimbursement for a househunting trip, the expenses incident to selling his former residence and purchasing a residence at his new duty station, miscellaneous expenses, and for subsistence while occupying temporary quarters.

As a Foreign Service Reserve employee, Mr. Weaver's entitlement to reimbursement for expenses incurred incident to the transfer are governed by the Foreign Affairs Manual. Specifically, 6 FAM 111 (August 14, 1973) states in pertinent part:

"These regulations cover travel of Foreign Service employees and the members of their families, storage and shipment of their furniture, household and personal effects, and motor vehicles, and apply to travel and transportation within the United States as well as abroad."

The transfer expenses for which a Foreign Service employee may be reimbursed are summarized at 6 FAM 181. They include travel expenses for the employee and the members of his family when proceeding to his new post of duty and the cost of transporting and storing the furniture and household effects of the employee. Reimbursement for relocation expenses, that is real estate transactions, househunting trips, temporary quarters and miscellaneous expenses, is not authorized by the Foreign Affairs Manual. Thus, no specific authority exists for the payment of the claimed expenses.

The State Department administrative office sought to authorize the claimed expenses under the provisions of 6 FAM 113 (August 14, 1973) and 6 FAM 121.1-4 (February 27, 1975). Together, those provisions provide for a special committee of the Department of State which, upon request of affected employees, recommends exceptions to the Foreign Service Travel Regulations where allowances were exceeded or excess costs were incurred incident to travel or storage of household effects. Any such exceptions recommended must be allowable under

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existing authority, whether or not specifically provided for by the Foreign Service Travel Regulations. See 6 FAM 113, and B-157287 September 29, 1965.

The provisions of 6 FAM 113 are not intended as a means of authorizing expenditures not otherwise allowable by law. Rather, it is intended to permit the State Department to grant exceptions to applicable administrative regulations where circumstances warrant, and only if such exceptions are allowable under existing authority. Since, as stated above, neither the Foreign Service Act of 1946 nor the Foreign Service Travel Regulations contain authority for the reimbursement of relocations expenses of the type claimed by Mr. Weaver, the provisions of 6 FAM 113 and 6 FAM 121.1-4 may not serve to authorize reimbursement of such expenses to Mr. Weaver, regardless of any extenuating circumstances present.

Deputy

R. F. K. 114
Comptroller General
of the United States